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April 5, 2023

Via CM/ECF System

The Honorable Denise L. Cote
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Plaintiff's Motion for Default Judgment

Pena v. Cajun Express, Inc. and Vista Yacht Cruises, Inc.
SDNY Civil Action No. 22-cv-1125-DLC
Our Ref: 35240

Dear Judge Cote:

We represent Defendant Vista Yacht Cruises, Inc. ("Vista") in the above-referenced action. We write in regard to Plaintiff's Motion for Default Judgment against Defendant Cajun Express, Inc. ("Cajun") (Dkt. 45), which is presently scheduled for a hearing before Your Honor on April 14, 2023 at 3:00 p.m. (Dkt. 46).

Cajun recently tendered its defense of this action to Vista in response to Plaintiff's motion. As a result, this firm has been instructed to assume Cajun's defense by Vista's insurers. Accordingly, we will be filing Notices of Appearance on behalf of Cajun in short order.

In light of this development, we contacted opposing counsel on March 29, 2023 to determine whether Plaintiff would agree to set aside the default against Cajun (Dkt. 42) and to withdraw his motion for a default judgment (Dkt 45). Opposing counsel confirmed that Plaintiff is agreeable to both.

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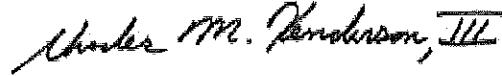
Accordingly, we respectfully request:

- (1) that the Clerk's Certificate of Default (Dkt. 42) be set aside;
- (2) that Plaintiff's Motion for Default Judgment (Dkt. 45) be deemed withdrawn and/or denied without prejudice;
- (3) that the motion hearing scheduled for April 14, 2023 be adjourned; and
- (4) that Cajun be given until to April 28, 2023 to file its Answer to Plaintiff's Amended Complaint.

We thank the Court for its consideration of the foregoing requests and stand ready to answer any questions that the Court may have with respect to this matter.

Respectfully submitted,

HILL RIVKINS LLP



Charles M. Henderson, III

Cc: All counsel of record (via ECF)

Granted. The Trial Order
remains due on 9/22/23.
/jmc
4/5/23